

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION

Board of Trustees of the Ohio Laborers' Fringe Benefit Programs,	:	
Plaintiffs	:	Case No. 2:05-cv-217
v.	:	Judge Sargus
Short Concrete Construction, Inc. dba Short Concrete, Inc.	:	Magistrate Judge Abel
Defendant	:	

**Order**

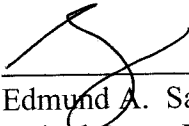
This matter is before the Court on plaintiffs Board of Trustees of the Ohio Laborers' Fringe Benefit Programs May 6, 2005 motion for default judgment against defendant Short Concrete Construction, Inc. dba Short Concrete, Inc. (doc. 7). Plaintiffs seek an order granting it default judgment and ordering defendant to provide plaintiffs with access to the payroll Records of Short Concrete Construction, Inc. dba Short Concrete, Inc. for the period of May 2003 through November 2004.

This action was filed on March 9, 2005, and the Clerk of Court entered default on May 2, 2005. After being properly served, defendant has failed to plead or otherwise defend this action. According to the collective bargaining agreement, defendant has a contractual obligation to permit plaintiffs access to its payroll records for the purposes of an audit. Plaintiffs contend that defendant has failed to comply with this obligation by ignoring a written request to audit payroll records and follow up telephone calls and correspondence, failing to appear for a deposition, and

failing to produce requested documents.

Congress has specifically given courts hearing claims for delinquent fringe benefit contributions the power to grant injunctive relief "as the court deems appropriate," 29 USC §1132(g)(2)(E); *Laborers Fringe Benefit Funds Detroit and Vicinity v. Northwest Concrete & Construction, Inc.*, 640 F. 2d 1350 (6th Cir. 1981). Plaintiffs are unable to determine the rights of its participants to benefits and the amount of contributions owed by defendant employer without access to the payroll records. Accordingly, plaintiffs or its participants will continue to suffer harm unless defendant is ordered to meet its contractual obligations to make records available to plaintiffs for purposes of an audit.

Plaintiffs Board of Trustees of the Ohio Laborers' Fringe Benefit Programs May 6, 2005 motion for default judgment against defendant Short Concrete Construction, Inc. dba Short Concrete, Inc. (doc. 7) is GRANTED. Therefore, defendant is ORDERED to provide plaintiffs with access to the payroll records of Short Concrete Construction, Inc. dba Short Concrete, Inc. dba Short Concrete, Inc. for the period of May 2003 through November 2004 within 15 days of this Order, and plaintiffs are AWARDED costs. The Clerk of Court is DIRECTED to enter JUDGMENT for plaintiffs. The Court retains jurisdiction to enforce the judgment.

  
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Edmund A. Sargus, Jr.  
United States District Judge